

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING FINANCING OF NATIONAL GUARD SUPPORT PURSUANT TO DISASTER AND EMERGENCY SERVICES; PROVIDING FOR INTERAGENCY FUNDING AGREEMENTS FOR DIRECT PAYMENT OF CERTAIN NATIONAL GUARD EXPENSES FROM NONGENERAL FUND SOURCES; ESTABLISHING A SPECIAL REVENUE ACCOUNT AND AUTHORIZING PAYMENTS TO NATIONAL GUARD MEMBERS FROM THE ACCOUNT; PROVIDING THAT PAY AND ALLOWANCE AMOUNTS PURSUANT TO AN INTERAGENCY FUNDING AGREEMENT MAY EXCEED AMOUNTS BASED ON MILITARY PAY GRADE; PROVIDING A STATUTORY APPROPRIATION DIRECTLY TO THE DEPARTMENT OF MILITARY AFFAIRS; PROVIDING THAT SPECIAL REVENUE APPROPRIATED FOR CERTAIN NATIONAL GUARD SUPPORT OF INCIDENTS BE EXPENDED BEFORE GENERAL FUND MONEY; PROVIDING THAT IF SPECIAL REVENUE IS AVAILABLE TO REIMBURSE THE GENERAL FUND FOR INCIDENTS, THE GOVERNOR'S GENERAL FUND SPENDING AUTHORITY MUST BE REINSTATED BY A CORRESPONDING AMOUNT; CLARIFYING THAT GENERAL FUND APPROPRIATIONS TO THE GOVERNOR PURSUANT TO AN INCIDENT MAY BE USED BY ANY STATE AGENCY DESIGNATED BY THE GOVERNOR; AND AMENDING SECTIONS 10-1-501, 10-1-502, 10-3-103, 10-3-203, 10-3-310, AND 10-3-312, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Interagency funding agreements to pay for national guard assistance.

For the purpose of providing a direct funding mechanism to pay for national guard expenses from special funds, the department may enter into an interagency funding agreement with any federal, state, local, public, or private entity authorized by law to pay for national guard expenses incurred for providing national guard assistance pursuant to this chapter.

Section 2. Section 10-1-501, MCA, is amended to read:

1 **"10-1-501. Pay Payment methods for activated militia from ~~general fund~~.** ~~(1) When~~ Except as
2 provided in subsection (2), when the organized militia is ordered into active duty as provided for in Article VI,
3 section 13, of the constitution of this state, warrants for pay and expenses ~~shall~~ must be drawn upon the general
4 fund of the state.

5 (2) Warrants for pay and expenses to a national guard member on active duty may be drawn upon the
6 special revenue account established in 10-3-203(3), subject to the terms of the interagency funding agreement
7 applicable to the active duty performed by the member."

8
9 **Section 3.** Section 10-1-502, MCA, is amended to read:

10 **"10-1-502. Pay Amount of pay and allowances.** ~~(1) An~~ Except as provided in subsection (2):

11 (a) an officer ordered into active duty as provided for in Article VI, section 13, of the constitution of this
12 state ~~shall~~ must receive pay and allowances as prescribed for an officer of corresponding grade and length of
13 service when on active duty in federal service; and

14 ~~(2) An~~ (b) an enlisted member ordered into active duty as provided for in Article VI, section 13, of the
15 constitution of this state ~~shall~~ must receive pay at rates equivalent to twice those allowed for an enlisted member
16 of corresponding grade and length of time when on active duty in federal service. This schedule of pay for
17 enlisted members applies only to the first 15 days of service. After 15 days, an enlisted member ~~shall~~ must
18 receive the pay and allowances as prescribed for an enlisted member of corresponding grade when on active
19 duty in federal service.

20 (2) An officer or enlisted member on state active duty may receive pay and allowances in the amounts
21 provided pursuant to an interagency funding agreement, subject to the terms and conditions of the agreement,
22 if the amounts payable pursuant to the interagency funding agreement are not less than would have been
23 payable under subsection (1).

24 (3) Payments to a member pursuant to an interagency funding agreement may not affect any other
25 benefit, right, privilege, or immunity conferred on a member by law.

26 (4) The pay and allowances provided for in this section may not be paid when pay and allowances for
27 the active duty are provided out of federal military funds.

28 (5) For purposes of this section, "interagency funding agreement" has the meaning provided in
29 10-3-103."

1 **Section 4.** Section 10-3-103, MCA, is amended to read:

2 **"10-3-103. Definitions.** As used in parts 1 through 4 of this chapter, the following definitions apply:

3 (1) "Civil defense" means the nuclear preparedness functions and responsibilities of disaster and
4 emergency services.

5 (2) "Department" means the department of military affairs.

6 (3) "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss
7 of life or property resulting from any natural cause or ~~man-made~~ cause by human activity, including tornadoes,
8 windstorms, snowstorms, wind-driven water, high water, floods, wave action, earthquakes, landslides,
9 mudslides, volcanic action, fires, explosions, air or water contamination requiring emergency action to avert
10 danger or damage, blight, droughts, infestations, riots, sabotage, hostile military or paramilitary action, disruption
11 of state services, or accidents involving radiation byproducts or other hazardous materials.

12 (4) "Disaster and emergency services" means the preparation for and the carrying out of disaster and
13 emergency functions and responsibilities, other than those for which military forces or other state or federal
14 agencies are primarily responsible, to mitigate, prepare for, respond to, and recover from injury and damage
15 resulting from emergencies or disasters.

16 (5) "Division" means the division of disaster and emergency services of the department.

17 (6) "Emergency" means the imminent threat of a disaster causing immediate peril to life or property that
18 timely action can avert or minimize.

19 (7) (a) "Incident" means an event or occurrence, whether inside or outside state boundaries, caused
20 by either an individual or by natural phenomena, requiring action by disaster and emergency services personnel
21 to prevent or minimize loss of life or damage to property or natural resources. The term includes the imminent
22 threat of an emergency; ~~;~~

23 (b) ~~but the~~ The term does not include a state of emergency or disaster declared by the governor
24 pursuant to 10-3-302 or 10-3-303.

25 (8) "Interagency funding agreement" means an agreement entered into pursuant to [section 1] for the
26 payment of national guard expenses, irrespective of whether the agreement was made before, during, or after
27 the expenses were incurred.

28 (9) "Political subdivision" means any county, city, town, or other legally constituted unit of local
29 government in this state.

30 ~~(9)~~(10) "Principal executive officer" means the mayor, presiding officer of the county commissioners,

1 or other chief executive officer of a political subdivision.

2 ~~(40)(11)~~ "Temporary housing" means unoccupied habitable dwellings, suitable rental housing, mobile
3 homes, or other readily fabricated dwellings."

4
5 **Section 5.** Section 10-3-203, MCA, is amended to read:

6 **"10-3-203. Acceptance of funds, services, gifts, grants, and loans -- special revenue account --**
7 **statutory appropriations.** (1) Whenever the federal government, ~~or any agency or officer of the federal~~
8 ~~government, or any party to an interagency funding agreement~~ offers to the state, or through the state to any
9 political subdivision of the state, services, equipment, supplies, materials, or funds by way of gift, grant, ~~or loan,~~
10 ~~or other mechanism~~ for purposes of emergency or disaster services, the state, acting through the governor, or
11 the political subdivision, acting through its executive officer or governing body, may accept the offer. Upon the
12 acceptance, the governor of the state or the executive officer or governing body of the political subdivision may
13 authorize any officer of the state or of the political subdivision to receive the services, equipment, supplies,
14 materials, or funds on behalf of the state or political subdivision and subject to the terms of the offer and the
15 rules, if any, of the agency making the offer.

16 (2) The funds, ~~items, and services set forth in~~ received by the state under subsection (1) are statutorily
17 appropriated, as provided in 17-7-502, to the governor for the purposes set forth in subsection (1), except as
18 provided in subsection (3).

19 (3) Funds received pursuant to an interagency funding agreement must be deposited in a special
20 revenue account, established pursuant to 17-2-102(1)(b)(i), to the credit of the department. Funds in the account
21 are statutorily appropriated, as provided in 17-7-502, to the department for the purposes specified by the entity
22 that provided the funds."

23
24 **Section 6.** Section 10-3-310, MCA, is amended to read:

25 **"10-3-310. Incident response -- authority -- appropriation -- expenditures -- recovery -- rules.** (1)
26 The governor may by executive order upon request of the local governing body or its authorized agent, or upon
27 the request of any party to an interagency funding agreement, activate that part of the state disaster and
28 emergency plan pertaining to incident response. The order may be issued for any year, for any part of a year,
29 or upon occurrence of an incident.

30 (2) Upon approval of an executive order pursuant to this section:

1 (a) that part of the state disaster and emergency plan pertaining to incidents becomes effective;

2 (b) the division may use any of the resources usable by the division during a state of emergency or
3 disaster to respond to the incident; and

4 (c) there is statutorily appropriated, as provided in 17-7-502, to the office of the governor, and the
5 governor is authorized to expend from the general fund an amount not to exceed \$10,000 ~~per~~ for each incident
6 and not to exceed \$100,000 for incidents in a biennium, subject to subsection (3).

7 (3) Special revenue funds received pursuant to an interagency funding agreement for national guard
8 assistance in responding to the incident must be expended before general fund money appropriated pursuant
9 to subsection (2)(c), unless the special revenue funds are not yet accessible.

10 (4) The governor may authorize the incurring of liabilities and expenses to be paid as other claims
11 against the state from the general fund, in the amount necessary, upon activation of the incident response
12 portion of the state disaster and emergency plan. Money appropriated by this section may be used only for
13 incident response costs of the state and may not be used to reimburse a local government for incident response
14 costs incurred by that local government.

15 ~~(4)(5)~~ In the event of ~~recovery of money expended~~ that general fund expenditures pursuant to this
16 section are reimbursed from nongeneral fund sources, including reimbursement from a party to an interagency
17 funding agreement, the general fund spending authority under subsection (2)(c) must be reinstated ~~to the level~~
18 reflecting the recovery by an amount corresponding to the reimbursement.

19 (6) The statutory appropriation in subsection (2)(c) may be used by any state agency designated by the
20 governor.

21 ~~(5)(7)~~ The department may adopt rules to implement this section."
22

23 **Section 7.** Section 10-3-312, MCA, is amended to read:

24 **"10-3-312. Maximum expenditure by governor -- appropriation.** (1) Whenever an emergency or
25 disaster is declared by the governor, there is statutorily appropriated to the office of the governor, as provided
26 in 17-7-502, and, subject to subsection (2), the governor is authorized to expend from the general fund an
27 amount not to exceed \$12 million in any biennium, minus any amount appropriated to the governor pursuant to
28 10-3-310(2)(c) in the same biennium. The statutory appropriation in this subsection may be used by any state
29 agency designated by the governor.

30 (2) In the event of the recovery of money expended under this section, the spending authority must be

1 reinstated to a level reflecting the recovery.

2 (3) If a disaster is declared by the president of the United States, there is statutorily appropriated to the
3 office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the general fund
4 an amount not to exceed \$500,000 during the biennium to meet the state's share of the individual and family
5 grant programs as provided in 42 U.S.C. 5178. The statutory appropriation in this subsection may be used by
6 any state agency designated by the governor."

7
8 **NEW SECTION. Section 8. Codification instruction.** [Section 1] is intended to be codified as an
9 integral part of Title 10, chapter 3, part 1, and the provisions of Title 10, chapter 3, part 1, apply to [section 1].

10 - END -